IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 1070 of 2003

Between:

S.Pallam Raju, s/o Peda Chandraiah,
R/o Gollavalli Village., East Godavari District

..... PETITIONERS

AND

1 The Secretary, Excise Department, Secretariat, Hyderabad.
2 The Commissioner for Prohibition & Excise

Nampally,Hyderabad.
3 The Prohibition & Excise Superintendent,

Kakinada, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate Writ or direction declaring the action of the respondents in not refunding the proportionate rentals and licence fee to the petitioners for the period from 11-1-2002 to 31-3-2002 during which the period the petitioner could not conduct the business as arbitrary and illegal and consequently direct the respondent to refund the rentals and licence fee forthwith and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.A.JAGANNATHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following:

ORDER:

-

-

The petitioner was granted licence in Form IL 24 under the A.P. Indian Liquor & Foreign Liquor Rules, 1970 and the A.P.Excise Act, 1968. The licence was for the period 1998-1999. By proceedings dated 12.11.1998, the third respondent cancelled the licence. The petitioner approached the Government and filed a revision petition. The same was allowed by the Government by orders in G.O.Rt.No.657, dated 24.03.2001. Pursuant thereto the third respondent granted licence for the year 2001-2002. This was challenged by a rival trader before this Court and this Court suspended G.O.Rt.No.657, which was later vacated on 28.03.2002.

After this Court vacated the interim order suspending G.O.Rt.No.657, dated 24.03.2001, the petitioner was granted licence on 28.03.2002. Therefore, from 27.12.2001 when this Court suspended G.O.Rt.No.657 till 28.03.2002, when the interim order of suspension was vacated, the petitioner was not allowed to run the liquor shop known as L.K.Wines, Tadepalligudem.

The petitioner made a representation to the third respondent seeking remission of licence fee for the period from 28.12.2001 to 28.03.2002. It is the case of the petitioner that the same was duly refunded by the third respondent with second respondent. But the second respondent did not pass any orders.

Though the writ petition was admitted by this Court on 05.02.2003, no counter affidavit is filed. The learned Assistant Government Pleader for Prohibition & Excise, Ms.Sunitha, on instructions submits that the matter is still pending before the Commissioner for Prohibition & Excise. Therefore, instead of keeping the matter pending, the writ petition is disposed of directing the second respondent to consider the case of the petitioner in the light of the report sent by the third respondent and pass appropriate orders within a period of three weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

_____

(V.V.S.RAO, J)

28.06.2005

vs

To

1 The Secretary, Excise Department, Secretariat, Hyderabad.
2 The Commissioner for Prohibition & Excise

Nampally,Hyderabad.
3 The Prohibition & Excise Superintendent,

Kakinada, East Godavari District.

4 2 CCs to Government Pleader for Prohibition and Excise,

High Court Buildings, Hyderabad. (OUT)

5 2 CD copies